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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,162	07/30/2003	Patrick Schmitt	10191/3117	1902
26646	7590	12/15/2005	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			A, MINH D	
			ART UNIT	PAPER NUMBER
			2821	

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary

Application No.

10/632,162

Applicant(s)

SCHMITT ET AL.

Examiner

Minh D A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-8 and 14-17 is/are allowed.
- 6) ☒ Claim(s) 1-4, 9-13, 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Applicant's communication filed on 10/03/05 has been carefully considered by the examiner. The arguments advanced therein are persuasive with respect to the rejection of record, and those rejection are accordingly withdrawn. In view of a further consideration, however, a new rejection is set forth below. This action is not made final

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-4, 9-13, 18-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Chernichovski et al (US 6,818,881).

Regarding claims 1,10, 19-20, Chernichovsk discloses an optical filter and passive infrared detector assembly comprising a sensor (20) for detecting at least

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infrared radiation and a filter element (pigment (10) having a filter) adapted such that substantially only infrared radiation is detectable by the sensor element (20). See figure, col.1, lines 1-67 to col.4, lines 1-50.

Regarding claims 2 and 11, Chernichovsk discloses a device is for automatically switching lighting equipment. See col.6, lines 60-67 to col.22, lines 1-57.

Regarding claims 3 and 12, Chernichovsk discloses wherein the sensor element (20) emits a signal, and further comprising a control device (processor) including an element for switching the lighting equipment as a function of the signal. See figure.

Regarding claims 4, 13, Chernichovsk discloses wherein the filter element is attachable to a glass pane of the motor vehicle. See figure.

Regarding claim 9, Chernichovsk discloses wherein the filter element is integrated into the sensor element. See figure.

Regarding claim 18, Chernichovsk discloses the filter element is integrated into the sensor element. See figure.

Allowable Subject Matter

3. Claims 5-8, 14-17 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Prior art does not teach that, a sensor element for detecting at least infrared radiation', a filter element adapted such that substantially only infrared radiation is is detectable by the sensor element and a rain sensor including a light conducting

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element, the light conducting element being substantially only transparent with respect to infrared radiation and being used as a filter element recited in independent claims 5 and 14.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Williams (US 3, 870, 884) and Neilson et al (US 2002/0098592) are cited to show an infrared detector device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Minh A whose telephone number is (571) 272-1817. The examiner can normally be reached on M-F (5:30 –2:30 PM).

If attempts to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Don Wong, can be reached on (571) 272-1834. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and (703) 872-9319 for final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (571) 272-1553.

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TUYET VO
PRIMARY EXAMINER

Examiner

Minh A

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11/29/05